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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ABEL VAZQUEZ MARTINEZ; et al.,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-74688

Agency Nos. A096-066-862  
A096-066-863

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted February 23, 2009<sup>\*\*</sup>

Before: KOZINSKI, Chief Judge, HAWKINS and GOULD, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA") order adopting and affirming an Immigration Judge's order denying petitioners' applications for cancellation of removal.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We have reviewed the opposition to the motion to dismiss this petition for review for lack of jurisdiction and the response to the court's December 16, 2008 order to show cause, and we conclude that petitioner Abel Vasquez-Martinez has failed to raise a colorable constitutional or legal claim to invoke our jurisdiction over this petition for review. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926 (9th Cir. 2005); *Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001).

Accordingly, respondent's motion to dismiss this petition for review for lack of jurisdiction with respect to petitioner Abel Vasquez-Martinez is granted. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Romero-Torres v. Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003); *Montero-Martinez v. Ashcroft*, 277 F.3d 1137, 1144 (9th Cir. 2002).

A review of the response to the order to show cause and the administrative record demonstrates that there is substantial evidence to support the BIA's decision that petitioner Silvina Vasquez failed to establish continuous physical presence in the United States for a period of not less than ten years as required for cancellation of removal. *See* 8 U.S.C. § 1229b(b)(1)(A); *Lopez-Alvarado v. Ashcroft*, 381 F.3d 847, 850-51 (9th Cir. 2004).

Accordingly, respondent's motion for summary disposition is granted with respect to petitioner Silvina Vasquez because the questions raised by this petition

for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

All other pending motions are denied as moot. The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**